

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

RODNEY DOWNIE, )  
v. Plaintiff, )  
JIMMY FALCO d/b/a TRANS LINK )  
MOTOR EXPRESS, INC., )  
Defendants. )  
)  
)  
)  
)  
)  
)  
Civil Action No.: 2:06cv313-WHA

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COME NOW the defendant in the above-styled action, Trans Link Motor Express, Inc., (“defendant” or “Trans Link”), and moves this Court to grant summary judgment in its favor pursuant to Rule 56 of the *Federal Rules of Civil Procedure* on the grounds that there are no genuine issues of material fact to be submitted to a jury and this Defendant is entitled to the entry of judgment as a matter of law. In support of this motion, Defendant relies on the following:

1. Plaintiff's Complaint.
2. Plaintiff's Amended Complaint.
3. Defendant's Answer to Complaint.
4. Defendant's Answer to Plaintiff's Amended Complaint.
5. Excerpts of the Deposition Testimony of Plaintiff Rodney Downie along with Defendant's Exhibits 1, 3 and 5 to his deposition, attached hereto as Exhibit A.
6. Docket Report for Plaintiff's Chapter 13 bankruptcy proceeding which is attached hereto as Exhibit B.

7. March 10, 2004 Order confirming Plaintiff's Chapter 13 bankruptcy plan which is attached hereto as Exhibit C.
8. Affidavit of Jimmy Fackler, attached hereto as Exhibit D.
9. Defendant's Brief in Support of its Motion for Summary Judgment, filed contemporaneously with this motion.

WHEREFORE, based upon the foregoing, Defendant respectfully request this Court grant its Motion for Summary Judgment and dismiss all of the Plaintiff's claims as a matter of law.

Respectfully submitted on this **31st** day of **July, 2007**.

/s/ Joel P. Smith, Jr.  
Joel P. Smith, Jr. (ASB-0328-M46J)

Attorney for Defendant Trans Link Motor Express, Inc.

**OF COUNSEL:**

WILLIAMS, POTTHOFF, WILLIAMS, & SMITH, L.L.C.  
Post Office Box 880  
Eufaula, Alabama 36072-0880  
Telephone: (334) 687-5834  
Facsimile: (334) 687-5722

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the foregoing upon the following counsel of record in this cause via electronic mail on this 31st day of July, 2007.

Malcolm R. Newman, Esq.  
P. O. Box 6137  
Dothan, Alabama 36302

/s/ Joel P. Smith, Jr.  
OF COUNSEL